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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BRIGGS A. MATSKO, THOMAS J. LOSAVIO,
and BRENDA T. BROUSSARD, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

Case Number: 4:22-cv-5240-HSG

**STIPULATION TO RELATE AND
CONSOLIDATE CASES AND TO
EXTEND DEADLINE FOR
DEFENDANTS TO RESPOND TO
COMPLAINT AND ORDER (as
modified)**

1 TESLA, INC., dba TESLA MOTORS, INC.;
2 TESLA LEASE TRUST; and TESLA FINANCE
3 LLC,

4 Defendants.

5 DOMINICK BATTIATO, on behalf of himself
6 and all others similarly situated,

7 Plaintiff,

8 v.

9 TESLA, INC., dba TESLA MOTORS, INC.;
10 TESLA LEASE TRUST; and TESLA FINANCE
11 LLC,

12 Defendants.

13 CHRISTOPHER MALLOW, individually, and
14 on behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 TESLA, INC., dba TESLA MOTORS, INC.;
18 TESLA LEASE TRUST; and TESLA FINANCE
19 LLC,

20 Defendants.

Case Number: 4:22-cv-5264-JST

Case Number: 4:22-cv-5443-TLT

1 Plaintiffs Briggs A. Matsko, Thomas J. Losavio, and Brenda T. Broussard (the “Matsko
 2 Plaintiffs”), Dominick Battiato (“Battiato”), and Christopher Mallow (“Mallow”), by and through
 3 their counsel, and Defendants Tesla, Inc. (dba Tesla Motors, Inc.), Tesla Lease Trust, and Tesla
 4 Finance LLC, by and through their counsel, hereby stipulate to the following:

5 WHEREAS, on September 14, 2022, Matsko filed the above-captioned case against
 6 Defendants, and Defendants were served on September 28, 2022. *Matsko v. Tesla, Inc. et al.*,
 7 4:22-cv-5264-HSG, ECF Nos. 1, 12-14.

8 WHEREAS, on September 23, 2022, the Matsko Plaintiffs amended the complaint, and
 9 Defendants accepted service of the amended complaint on October 3, 2022. *Id.*, ECF Nos. 6, 16.

10 WHEREAS, on September 15, 2022, Battiato filed the above-captioned case against
 11 Defendants, and Defendants were served on September 23, 2022. *Battiato v. Tesla, Inc. et al.*,
 12 4:22-cv-5264-JST, ECF Nos. 1, 11-13.

13 WHEREAS, on September 23, 2022, Mallow filed the above-captioned case against
 14 Defendants, and Defendants were served on September 26, 2022. *Mallow v. Tesla, Inc. et al.*,
 15 4:22-cv-5443-TLT, ECF Nos. 1, 6-8.

16 WHEREAS, *Mallow* designated *Matsko* and *Battiato* as related cases, while *Battiato*
 17 designated another case, *Toledo v. Tesla, Inc.*, 4:22-cv-4908-HSG, as a related case.

18 WHEREAS, the Matsko Plaintiffs, Battiato, Mallow, and Defendants all agree that
 19 *Matsko*, *Battiato*, and *Mallow* should be related to each other and all assigned to this Court
 20 (Gilliam, J., the District Judge assigned to the lowest-numbered *Matsko* action) pursuant to Civil
 21 Local Rule 3-12, and that *Battiato* should not be designated as related to *Toledo*.

22 WHEREAS, the *Matsko*, *Battiato*, and *Mallow* actions are each putative class actions that
 23 (i) are brought on behalf of the same purported nationwide class against the same Defendants,
 24 (ii) arise from the same set of factual allegations, and (iii) assert similar causes of action,
 25 including violation of the federal Magnuson-Moss Warranty Act, breach of express warranty,
 26 breach of implied warranty, violation of California Unfair Competition Law, violation of
 27 California False Advertising Law, fraud and deceit, and negligent misrepresentation.
 28

1 WHEREAS, the parties have agreed to consolidate the *Matsko*, *Battiato*, and *Mallow*
2 actions for all purposes pursuant to Fed. R. Civ. P. 42(a) and have agreed to work cooperatively,
3 to coordinate their efforts, and to promote judicial economy and avoid duplicative discovery and
4 motion practice.

5 WHEREAS, Defendants' response to the amended complaint in *Matsko* is currently due
6 October 14, 2022, their response to the complaint in *Battiato* is currently due October 17, 2022,
7 and their response to the complaint in *Mallow* is currently due October 19, 2022.

8 WHEREAS, in light of the above and pursuant to Civil Local Rule 6-1(a), the parties
9 have further agreed that Defendants do not need to respond to the current operative complaints in
10 *Matsko*, *Battiato*, and *Mallow*, but that plaintiffs will instead file a consolidated amended
11 complaint to which Defendants will respond according to the timeline set forth below.

12 WHEREAS, the parties further agree that in the event the Court enters an order
13 consolidating the *Matsko*, *Battiato*, and *Mallow* actions, the consolidated Plaintiffs shall have 10
14 days after entry of such an order to file a consolidated amended complaint in the lowest-
15 numbered *Matsko* action, and that Defendants shall have 30 days after the filing of the
16 consolidated amended complaint to file a response thereto. If Defendants respond to the
17 consolidated amended complaint by filing one or more motions, consolidated Plaintiffs shall
18 have 30 days to oppose any such motion, and Defendants shall have 15 days thereafter to file a
19 reply.

20 WHEREAS, the parties agree nothing in this stipulation, proposed order, or enacted order
21 shall be cited by or used in support of any future briefing on issues relating to class certification
22 in the above-mentioned actions.

23 **IT IS HEREBY STIPULATED AND AGREED**, among the undersigned parties, and
24 respectfully submitted for the Court's approval, as follows:

25 1. The *Battiato* and *Mallow* actions are related to the lowest-numbered *Matsko*
26 action and assigned to this Court (Gilliam, J.) pursuant to Civil Local Rule 3-12.
27
28

2. The *Matsko*, *Battiato*, and *Mallow* actions are consolidated for all purposes pursuant to Federal Rule of Civil Procedure 42(a), and the consolidated Plaintiffs shall have 10 days from the entry of an order consolidating the cases to file a consolidated amended complaint in the lowest-numbered *Matsko* case.

3. Defendants do not need to respond to the current operative complaints in *Matsko*, *Battiato*, and *Mallow*.

4. Defendants shall have 30 days after the consolidated Plaintiffs file a consolidated amended complaint to respond thereto. If Defendants respond to the consolidated amended complaint by filing one or more motions, consolidated Plaintiffs shall have 30 days to oppose any such motion, and Defendants shall have 15 days to file a reply.

COTCHETT PITRE & MCCARTHY LLP

Dated: October 11, 2022

By: /s/ Frank M. Pitre
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Dated: October 11, 2022

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1 Dated: October 11, 2022

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13 Dated: October 11, 2022

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15 By: /s/ David C. Marcus
16 David C. Marcus

17 *Attorneys for Defendants Tesla, Inc., Tesla*
18 *Lease Trust, and Tesla Finance LLC*

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that:

1. The *Battiato* and *Mallow* actions (4:22-cv-5264-JST; 4:22-cv-5443-TLT) are related to the lowest-numbered *Matsko* action (4:22-cv-5240-HSG) and assigned to this Court pursuant to Civil Local Rule 3-12.
2. The *Matsko*, *Battiato*, and *Mallow* actions are consolidated for all purposes pursuant to Federal Rule of Civil Procedure 42(a). *Matsko*, the earlier-filed civil action shall serve as the lead case. The clerk is directed to administratively close *Battiato* and *Mallow*, the later-filed civil actions. All future filings should be done in the lead case only and should be captioned "In re Tesla Advanced Driver Assistance Systems Litigation".
3. Defendants do not need to respond to the currently operative complaints in the *Matsko*, *Battiato*, and *Mallow* action.
4. The consolidated Plaintiffs shall file a consolidated amended complaint in the lowest-number *Matsko* action within 10 days after entry of this Order.
5. Defendants shall respond to the consolidated amended complaint within 30 days after the consolidated amended complaint is filed. If Defendants' response is in the form of one or more motions, Plaintiffs shall file an opposition to any such motion within 30 days after the motion is filed, and Defendants shall file a reply (if any) within 15 days after any such opposition is filed.

DATED: 10/19/2022


By: Hon. Haywood S. Gilliam, Jr.